

## Part 2

### Retail Licensing Process

#### **32B-5-201 Application requirements for retail license.**

- (1)
- (a) Before a person may store, sell, offer for sale, furnish, or permit consumption of an alcoholic product on licensed premises as a retail licensee, the person shall first obtain a retail license issued by the commission, notwithstanding whether the person holds a local license or a permit issued by a local authority.
  - (b) Violation of this Subsection (1) is a class B misdemeanor.
- (2) To obtain a retail license under this title, a person shall submit to the department:
- (a) a written application in a form prescribed by the department;
  - (b) a nonrefundable application fee in the amount specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license for which the person is applying;
  - (c) an initial license fee:
    - (i) in the amount specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license for which the person is applying; and
    - (ii) that is refundable if a retail license is not issued;
  - (d) written consent of the local authority;
  - (e) a copy of the person's current business license;
  - (f) evidence of proximity to any community location, with proximity requirements being governed by Section 32B-1-202;
  - (g) a bond as specified by Section 32B-5-204;
  - (h) a floor plan, and boundary map where applicable, of the premises of the retail license, including any:
    - (i) consumption area; and
    - (ii) area where the person proposes to store, sell, offer for sale, or furnish an alcoholic beverage;
  - (i) evidence that the retail licensee is carrying public liability insurance in an amount and form satisfactory to the department;
  - (j) evidence that the retail licensee is carrying dramshop insurance coverage of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate;
  - (k) a signed consent form stating that the retail licensee will permit any authorized representative of the commission, department, or any law enforcement officer to have unrestricted right to enter the premises of the retail licensee;
  - (l) if the person is an entity, proper verification evidencing that a person who signs the application is authorized to sign on behalf of the entity; and
  - (m) any other information the commission or department may require.
- (3) The commission may not issue a retail license to a person who:
- (a) is disqualified under Section 32B-1-304; or
  - (b) is not lawfully present in the United States.
- (4) Unless otherwise provided in the relevant part under Chapter 6, Specific Retail License Act, the commission may not issue a retail license to a person if the licensed premises does not meet the proximity requirements of Section 32B-1-202.

Enacted by Chapter 276, 2010 General Session



**32B-5-202 Renewal requirements.**

- (1) A retail license expires each year on the day specified in the relevant part under Chapter 6, Specific Retail License Act, for that type of retail license.
- (2) To renew a person's retail license, a retail licensee shall, by no later than the day specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license that is being renewed, submit:
  - (a) a completed renewal application to the department in a form prescribed by the department; and
  - (b) a renewal fee in the amount specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license that is being renewed.
- (3) Failure to meet the renewal requirements results in an automatic forfeiture of the retail license effective on the date the existing retail license expires.

Enacted by Chapter 276, 2010 General Session

**32B-5-203 Commission and department duties before issuing a retail license.**

- (1)
  - (a) Before the commission may issue a retail license, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission as to whether a retail license should be issued.
  - (b) The department shall forward the information and recommendations described in Subsection (1)(a) to the commission to aid in the commission's determination.
- (2) Before issuing a retail license, the commission shall:
  - (a) determine that the person filed a complete application and is in compliance with:
    - (i) Section 32B-5-201; and
    - (ii) the specific licensing requirements specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license for which the person is applying;
  - (b) determine that the person is not disqualified under Section 32B-1-304;
  - (c) consider the locality within which the proposed licensed premises is located, including:
    - (i) physical characteristics such as:
      - (A) condition of the licensed premises;
      - (B) square footage; and
      - (C) parking availability; and
    - (ii) operational factors such as:
      - (A) tourist traffic;
      - (B) demographics;
      - (C) population to be served;
      - (D) proximity to and density of other state stores, package agencies, and retail licensees; and
      - (E) the extent of and proximity to any community location;
  - (d) consider the person's ability to manage and operate a retail license of the type for which the person is applying, including:
    - (i) management experience;
    - (ii) past retail alcoholic product experience; and
    - (iii) the type of management scheme to be used by the retail licensee;
  - (e) consider the nature or type of retail licensee operation of the proposed retail licensee, including:
    - (i) the type of menu items that will be offered and emphasized;
    - (ii) whether the retail licensee will emphasize service to an adult clientele or to minors;



- (iii) the proposed hours of operation;
- (iv) the seating capacity of the premises; and
- (v) the estimated gross sales of food items; and
- (f) consider any other factor the commission considers necessary.

Enacted by Chapter 276, 2010 General Session

**32B-5-204 Bond for retail license.**

- (1)
  - (a) A retail licensee shall post a cash bond or surety bond:
    - (i) in the amount specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license for which the person is applying; and
    - (ii) payable to the department.
  - (b) A retail licensee shall procure and maintain the bond required under this section for as long as the retail licensee continues to operate as a retail licensee.
- (2) A bond required under this section shall be:
  - (a) in a form approved by the attorney general; and
  - (b) conditioned upon the retail licensee's faithful compliance with this title and the rules of the commission.
- (3)
  - (a) If a surety bond posted by a retail licensee under this section is canceled due to the retail licensee's negligence, the department may assess a \$300 reinstatement fee.
  - (b) No part of a bond posted by a retail licensee under this section may be withdrawn:
    - (i) during the period the retail license is in effect; or
    - (ii) while a revocation proceeding is pending against the retail licensee.
- (4)
  - (a) A bond posted under this section by a retail licensee may be forfeited if the retail license is revoked.
  - (b) Notwithstanding Subsection (4)(a), the department may make a claim against a bond posted by a retail licensee for money owed the department under this title without the commission first revoking the retail license.

Enacted by Chapter 276, 2010 General Session

**32B-5-205 Conditional retail license.**

- (1) As used in this section:
  - (a) "Conditional retail license" means a retail license that:
    - (i) conditions the holder's ability to sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its licensed premises on the person submitting to the department a copy of the holder's current business license before obtaining a valid retail license; and
    - (ii) provides that the holder will be issued a valid retail license if the holder complies with the requirements of Subsection (3).
  - (b) "Valid retail license" means a retail license issued pursuant to this part under which the holder is permitted to sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its licensed premises.
- (2) Subject to the requirements of this section, the commission may issue a conditional retail license to a person if the person:



- (a) meets the requirements to obtain the retail license for which the person is applying except the requirement to submit a copy of the person's current business license; and
  - (b) agrees not to sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its licensed premises before obtaining a valid retail license.
- (3)
- (a) A conditional retail license becomes a valid retail license on the day on which the department notifies the person who holds the conditional retail license that the department finds that the person has complied with Subsection (3)(b).
  - (b) For a conditional retail license to become a valid retail license, a person who holds the conditional retail license shall:
    - (i) submit to the department a copy of the person's current business license; and
    - (ii) provide to the department evidence satisfactory to the department that:
      - (A) there has been no change in the information submitted to the commission as part of the person's application for a retail license; and
      - (B) the person continues to qualify for the retail license.
- (4)
- (a) A conditional retail license expires nine months after the day on which the commission issues the conditional retail license, unless the conditional retail license becomes a valid retail license before that day.
  - (b) Notwithstanding Subsection (4)(a), the commission may extend the time period of a conditional retail license an additional three months if the holder of the conditional license can show to the satisfaction of the commission that the holder of the conditional license:
    - (i) has an active building permit related to the licensed premises; and
    - (ii) is engaged in a good faith effort to pursue completion within the three-month period.

Amended by Chapter 349, 2013 General Session

**32B-5-206 Seasonal retail license.**

- (1) If authorized in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license, the commission may in accordance with this section issue a seasonal retail license located in an area the commission considers proper.
- (2)
- (a) A seasonal retail license shall be for a period of six consecutive months.
  - (b) A seasonal retail license issued for operation during a summer time period is known as a "Seasonal A" retail license. The period of operation for a Seasonal A retail license:
    - (i) begins on May 1; and
    - (ii) ends on October 31.
  - (c) A seasonal retail license issued for operation during a winter time period is known as a "Seasonal B" retail license. The period of operation for a Seasonal B retail license:
    - (i) begins on November 1; and
    - (ii) ends on April 30.
- (3) In determining the number of each type of retail license that the commission may issue under the relevant part under Chapter 6, Specific Retail License Act:
- (a) a seasonal retail license is counted as one-half of one retail license of the specific type of retail license; and
  - (b) each Seasonal A retail license shall be paired with a Seasonal B retail license of the same type of retail license.



Enacted by Chapter 276, 2010 General Session